

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL S. DELGADO,

Plaintiff,

v.

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SANTA CLARA,

Defendant.

No. 1:20-cv-01059-DAD-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATION AND DISMISSING
PLAINTIFF'S COMPLAINT WITH
PREJUDICE

(Doc. Nos. 1, 3)

Plaintiff Miguel S. Delgado is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 31, 2020, plaintiff filed the complaint initiating this action asserting claims against the Santa Clara Superior Court related to alleged occurrences before his trial in that court, immediately after trial, and at prison following his conviction. (Doc. No. 1.) On August 10, 2020, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's complaint be dismissed with prejudice for failure to state a claim upon which relief may be granted. (Doc. No. 3 at 11.) Specifically, the magistrate judge found that: (1) plaintiff's first claim challenging his criminal conviction in state court on various bases must be brought through a petition for habeas corpus; (2) plaintiff's second claim seeking copies of a DNA testing

1 report in connection with his criminal case under his “RIGHT to Access to the Court” has no
2 constitutional basis; and (3) his third claim seeking access to records under the Freedom of
3 Information Act fails because state officials and entities are not subject to civil actions under the
4 Act. (*Id.* at 7, 10.) The findings and recommendations were served on plaintiff and contained
5 notice that any objections were to be filed within twenty-one (21) days of the date of service. (*Id.*
6 at 11.) Plaintiff sought and received a forty-five (45) day extension to file objections, followed
7 by a subsequent extension of time of thirty-seven (37) days. (Doc. Nos. 5, 6, 7, 8.) Plaintiff filed
8 timely objections on November 12, 2020. (Doc. No. 9.)

9 In his objections to the pending findings and recommendations, plaintiff does not directly
10 address the magistrate judge’s reasoning. Although plaintiff cites Supreme Court decisions to
11 support the bases of his challenge to his criminal conviction, such a challenge is clearly not
12 properly brought in a civil rights action under 42 U.S.C. § 1983, but rather on appeal before the
13 state appellate courts and, if unsuccessful there by way of a petition for habeas corpus. (Doc. No.
14 9 at 2–3.) Additionally, although plaintiff alleges additional facts related to his third claim under
15 the Freedom of Information Act, his citation to a case brought under the Act against the federal
16 Bureau of Prisons is misplaced. Plaintiff’s claim here is barred by the Freedom of Information
17 Act’s limitation of civil actions to federal agencies. (*See id.* at 1–3.) Finally, plaintiff reiterates
18 his right to access to the court, but asserts no argument as to how that right supports his claim
19 asserted in this case seeking a copy of a DNA lab report when the state procedure for doing so
20 satisfied all due process requirements. (*See id.* at 1.) In short, plaintiff’s arguments advanced in
21 his objections to the pending findings and recommendations are unpersuasive.

22 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this
23 court has conducted a de novo review of this case. Having carefully reviewed the entire file,
24 including plaintiff’s objections, the court finds the findings and recommendation to be supported
25 by the record and proper analysis.

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1 Accordingly,

- 2 1. The findings and recommendations issued on August 10, 2020 (Doc. No. 3) are
3 adopted in full;
4 2. Plaintiff's complaint (Doc. No. 1) is dismissed with prejudice; and
5 3. The Clerk of Court is directed to close the case.

6 IT IS SO ORDERED.

7 Dated: **December 10, 2020**

8 
UNITED STATES DISTRICT JUDGE